

Department of Defense

219.1005

(2) The 8(a) contractor is responsible for negotiating within the time established by the contracting officer;

(3) If the 8(a) contractor does not negotiate within the established time and the agency cannot allow additional time, the contracting officer may, after notifying the SBA, proceed with the acquisition from other sources;

(4) If requested by the 8(a) contractor, the SBA may participate in negotiations; and

(5) SBA approval of the contract is not required.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002]

219.811 Preparing the contracts.

219.811-1 Sole source.

(a) Awards under the PA cited in 219.800 may be made directly to the 8(a) contractor and, except as provided in paragraph (b) of this subsection and in 219.811-3, award documents shall be prepared in accordance with procedures established for non-8(a) contracts, using any otherwise authorized award forms. The "Issued by" block shall identify the awarding DoD contracting office. The contractor's name and address shall be that of the 8(a) participant.

(b) Use the following alternative procedures for direct awards made under the PA cited in 219.800:

(i) Cite 10 U.S.C. 2304(c)(5) as the authority for use of other than full and open competition;

(ii) Include the clause at 252.219-7009, which allows for direct award to the 8(a) contractor, and identify the cognizant SBA district office for the 8(a) contractor;

(iii) No SBA contract number is required; and

(iv) Do not require an SBA signature on the award document.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002; 67 FR 49256, July 30, 2002]

219.811-2 Competitive.

Awards made under the PA cited in 219.800 shall be prepared in accordance with 219.811-1.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002; 67 FR 49256, July 30, 2002]

219.811-3 Contract clauses.

(1) Use the clause at 252.219-7009, Section 8(a) Direct Award, instead of the clauses at FAR 52.219-11, Special 8(a) Contract Conditions, FAR 52.219-12, Special 8(a) Subcontract Conditions, and FAR 52.219-17, Section 8(a) Award, in solicitations and contracts processed in accordance with the PA cited in 219.800.

(2) Use the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, with 252.219-7010, Alternate A, in solicitations and contracts processed in accordance with the PA cited in 219.800.

(3) Use the clause at 252.219-7011, Notification to Delay Performance, in solicitations and purchase orders issued in accordance with 219.804-2(2).

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002]

219.812 Contract administration.

(d) Awards under the PA cited in 219.800 are subject to Section 407 of Pub. L. 100-656. These contracts include the clause at 252.219-7009, Section 8(a) Direct Award, which requires the 8(a) contractor to notify the SBA and the contracting officer when ownership of the firm is being transferred.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002]

Subpart 219.10—Small Business Competitiveness Demonstration Program

219.1005 Applicability.

(a)(i) Architect-engineering services in support of military construction projects or military family housing projects are exempt from the Small Business Competitiveness Demonstration Program, except for the emerging small business (ESB) set-aside requirements. Accordingly, these shall—

(A) Be reviewed for possible award under the 8(a) Program regardless of dollar value.

(B) Not be set aside for small business if the estimated value is \$300,000 or more (including indefinite delivery-indefinite quantity contracts if the value of all anticipated orders exceeds \$300,000).

(C) Be considered for ESB set-aside if the estimated value is both less than the emerging small business reserve amount and less than \$300,000.

(D) Be considered for small business set-aside if the estimated value is less than \$300,000, regardless of whether small business set-asides for other architect-engineer services are prohibited under the Small Business Competitiveness Demonstration Program, when an ESB set-aside is not appropriate.

(ii) All requirements of the Small Business Competitiveness Demonstration Program apply to architect-engineer services in support of other than military construction projects or military housing objects, which otherwise meet criteria in FAR subpart 19.10.

(b) The targeted industry categories for DoD are:

North American Industry Classification System (NAICS) Description	NAICS Code
(1) Pharmaceutical Preparation Manufacturing	325412
(2) Ammunition (except Small Arms) Manufacturing	332993
(3) Other Ordnance and Accessories Manufacturing	332995
(4) Turbine and Turbine Generator Set Unit Manufacturing	333611
(5) Aircraft Engine and Engine Parts Manufacturing (including Research and Development)	336412
(6) Guided Missile and Space Vehicle Manufacturing (including Research and Development)	336414
(7) Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing (including Research and Development)	336419
(8) Military Armored Vehicle, Tank and Tank Component Manufacturing	336992
(9) Search and Navigation System and Instrument Manufacturing ...	334511
(10) (i) Cellular and Other Wireless Telecommunications	517212
(ii) Satellite Telecommunications	517410
(iii) Other Telecommunications	517910

[56 FR 36353, July 31, 1991, as amended at 59 FR 27670, May 27, 1994; 62 FR 34122, June 24, 1997; 63 FR 41974, Aug. 6, 1998; 65 FR 50149, Aug. 17, 2000; 66 FR 49861, Oct. 1, 2001; 68 FR 50476, Aug. 21, 2003; 69 FR 31909, June 8, 2004]

219.1007 Procedures.

(a)(2) When it is not practical to mark the face page of an award document, alternative means may be used to identify the contract as an award under the Small Business Competitive-ness Demonstration Program.

(b)(1) The Director, Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD(AT&L)), will determine whether reinstatement of small business set-asides is necessary to meet the agency goal and will recommend reinstatement to the Director of Defense Procurement and Acquisition Policy (OUSD(AT&L)). Military departments and defense agencies shall not reinstate small business set-asides unless directed by the Director of Defense Procurement and Acquisition Policy.

(d) Reporting requirements are at 204.670–2.

[65 FR 39705, June 27, 2000, as amended at 68 FR 7439, Feb. 14, 2003; 70 FR 6374, Feb. 7, 2005]

Subpart 219.11—Price Evaluation Adjustment for Small Disadvantaged Business Concerns

219.1102 Applicability.

(b) The price evaluation adjustment also shall not be used in acquisitions that are for commissary or exchange resale.

[63 FR 41974, Aug. 6, 1998]

Subpart 219.12—Small Disadvantaged Business Participation Program

SOURCE: 63 FR 64429, Nov. 20, 1998, unless otherwise noted.

219.1203 Incentive subcontracting with small disadvantaged business concerns.

The contracting officer shall encourage increased subcontracting opportunities for SDB concerns in negotiated acquisitions by providing monetary incentives in the North American Industry Classification System Industry